



Sen. Jason A. Barickman

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1 AMENDMENT TO SENATE BILL 584

2 AMENDMENT NO. _____. Amend Senate Bill 584 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 10-50 as follows:

6 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)

7 Sec. 10-50. Decisions and orders.

8 (a) A final decision or order adverse to a party (other
9 than the agency) in a contested case shall be in writing or
10 stated in the record. A final decision shall include findings
11 of fact and conclusions of law, separately stated. Findings of
12 fact, if set forth in statutory language, shall be accompanied
13 by a concise and explicit statement of the underlying facts
14 supporting the findings. If, in accordance with agency rules, a
15 party submitted proposed findings of fact, the decision shall
16 include a ruling upon each proposed finding. Parties or their

1 agents appointed to receive service of process shall be
2 notified either personally or by registered or certified mail
3 of any decision or order. Upon request a copy of the decision
4 or order shall be delivered or mailed forthwith to each party
5 and to his attorney of record.

6 (b) All agency orders shall specify whether they are final
7 and subject to the Administrative Review Law. Every final order
8 shall contain a list of all parties of record to the case
9 including the name and address of the agency or officer
10 entering the order and the addresses of each party as known to
11 the agency where the parties may be served with pleadings,
12 notices, or service of process for any review or further
13 proceedings. Every final order shall also state whether the
14 rules of the agency require any motion or request for
15 reconsideration to make the decision reviewable under the
16 Administrative Review Law and shall cite the rule for the
17 requirement. The changes made by this amendatory Act of the
18 100th General Assembly apply to all actions filed under the
19 Administrative Review Law on or after the effective date of
20 this amendatory Act of the 100th General Assembly.

21 (c) A decision by any agency in a contested case under this
22 Act shall be void unless the proceedings are conducted in
23 compliance with the provisions of this Act relating to
24 contested cases, except to the extent those provisions are
25 waived under Section 10-70 and except to the extent the agency
26 has adopted its own rules for contested cases as authorized in

1 Section 1-5.

2 (Source: P.A. 92-16, eff. 6-28-01.)

3 Section 10. The Code of Civil Procedure is amended by
4 changing Sections 3-107 and 3-111 as follows:

5 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

6 Sec. 3-107. Defendants.

7 (a) Except as provided in subsection (b) or (c), in any
8 action to review any final decision of an administrative
9 agency, the administrative agency and all persons, other than
10 the plaintiff, who were parties of record to the proceedings
11 before the administrative agency shall be made defendants. The
12 method of service of the decision shall be as provided in the
13 Act governing the procedure before the administrative agency,
14 but if no method is provided, a decision shall be deemed to
15 have been served either when a copy of the decision is
16 personally delivered or when a copy of the decision is
17 deposited in the United States mail, in a sealed envelope or
18 package, with postage prepaid, addressed to the party affected
19 by the decision at his or her last known residence or place of
20 business. The form of the summons and the issuance of alias
21 summons shall be according to rules of the Supreme Court.

22 No action for administrative review shall be dismissed for
23 lack of jurisdiction: (1) based upon misnomer of an agency,
24 board, commission, or party that is properly served with

1 summons that was issued in the action within the applicable
2 time limits; or (2) for a ~~the~~ failure to name an employee,
3 agent, or member, who acted in his or her official capacity, of
4 an administrative agency, board, committee, or government
5 entity, ~~where~~ a timely action for administrative review has
6 been filed that identifies the final administrative decision
7 under review and that makes a good faith effort to properly
8 name the administrative agency, board, committee, or
9 government entity, ~~has been named as a defendant as provided in~~
10 ~~this Section~~. Naming the director or agency head, in his or her
11 official capacity, shall be deemed to include as defendant the
12 administrative agency, board, committee, or government entity
13 that the named defendants direct or head. No action for
14 administrative review shall be dismissed for lack of
15 jurisdiction based upon the failure to name an administrative
16 agency, board, committee, or government entity, where the
17 director or agency head, in his or her official capacity, has
18 been named as a defendant as provided in this Section.

19 If, during the course of a review action, the court
20 determines that an agency or a party of record to the
21 administrative proceedings was not made a defendant as required
22 by the preceding paragraph, then the court shall grant the
23 plaintiff 35 days from the date of the determination in which
24 to name and serve the unnamed agency or party as a defendant.
25 The court shall permit the newly served defendant to
26 participate in the proceedings to the extent the interests of

1 justice may require.

2 (b) With respect to actions to review decisions of a zoning
3 board of appeals in a municipality with a population of 500,000
4 or more inhabitants under Division 13 of Article 11 of the
5 Illinois Municipal Code, "parties of record" means only the
6 zoning board of appeals and applicants before the zoning board
7 of appeals. The plaintiff shall send a notice of filing of the
8 action by certified mail to each other person who appeared
9 before and submitted oral testimony or written statements to
10 the zoning board of appeals with respect to the decision
11 appealed from. The notice shall be mailed within 2 days of the
12 filing of the action. The notice shall state the caption of the
13 action, the court in which the action is filed, and the names
14 of the plaintiff in the action and the applicant to the zoning
15 board of appeals. The notice shall inform the person of his or
16 her right to intervene. Each person who appeared before and
17 submitted oral testimony or written statements to the zoning
18 board of appeals with respect to the decision appealed from
19 shall have a right to intervene as a defendant in the action
20 upon application made to the court within 30 days of the
21 mailing of the notice.

22 (c) With respect to actions to review decisions of a
23 hearing officer or a county zoning board of appeals under
24 Division 5-12 of Article 5 of the Counties Code, "parties of
25 record" means only the hearing officer or the zoning board of
26 appeals and applicants before the hearing officer or the zoning

1 board of appeals. The plaintiff shall send a notice of filing
2 of the action by certified mail to each other person who
3 appeared before and submitted oral testimony or written
4 statements to the hearing officer or the zoning board of
5 appeals with respect to the decision appealed from. The notice
6 shall be mailed within 2 days of the filing of the action. The
7 notice shall state the caption of the action, the court in
8 which the action is filed, and the name of the plaintiff in the
9 action and the applicant to the hearing officer or the zoning
10 board of appeals. The notice shall inform the person of his or
11 her right to intervene. Each person who appeared before and
12 submitted oral testimony or written statements to the hearing
13 officer or the zoning board of appeals with respect to the
14 decision appealed from shall have a right to intervene as a
15 defendant in the action upon application made to the court
16 within 30 days of the mailing of the notice. This subsection
17 (c) applies to zoning proceedings commenced on or after July 1,
18 2007 (the effective date of Public Act 95-321) ~~this amendatory~~
19 ~~Act of the 95th General Assembly.~~

20 (d) The changes to this Section made by Public Act
21 95-831 ~~this amendatory Act of the 95th General Assembly~~ apply to
22 all actions filed on or after August 21, 2007 (the effective
23 date of Public Act 95-831) ~~this amendatory Act of the 95th~~
24 ~~General Assembly.~~ The changes made by this amendatory Act of
25 the 100th General Assembly apply to all actions filed on or
26 after the effective date of this amendatory Act of the 100th

1 General Assembly.

2 (Source: P.A. 95-321, eff. 8-21-07; 95-831, eff. 8-14-08.)

3 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

4 Sec. 3-111. Powers of circuit court.

5 (a) The Circuit Court has power:

6 (1) with or without requiring bond (except if otherwise
7 provided in the particular statute under authority of which
8 the administrative decision was entered), and before or
9 after answer filed, upon notice to the agency and good
10 cause shown, to stay the decision of the administrative
11 agency in whole or in part pending the final disposition of
12 the case. For the purpose of this subsection, "good cause"
13 requires the applicant to show (i) that an immediate stay
14 is required in order to preserve the status quo without
15 endangering the public, (ii) that it is not contrary to
16 public policy, and (iii) that there exists a reasonable
17 likelihood of success on the merits;

18 (2) to make any order that it deems proper for the
19 amendment, completion or filing of the record of
20 proceedings of the administrative agency;

21 (3) to allow substitution of parties by reason of
22 marriage, death, bankruptcy, assignment or other cause;

23 (4) to dismiss parties, to correct misnomers,
24 including any erroneous identification of the
25 administrative agency that was made in good faith, to

1 realign parties, or to join agencies or parties;

2 (5) to affirm or reverse the decision in whole or in
3 part;

4 (6) where a hearing has been held by the agency, to
5 reverse and remand the decision in whole or in part, and,
6 in that case, to state the questions requiring further
7 hearing or proceedings and to give such other instructions
8 as may be proper;

9 (7) where a hearing has been held by the agency, to
10 remand for the purpose of taking additional evidence when
11 from the state of the record of the administrative agency
12 or otherwise it shall appear that such action is just.
13 However, no remandment shall be made on the ground of newly
14 discovered evidence unless it appears to the satisfaction
15 of the court that such evidence has in fact been discovered
16 subsequent to the termination of the proceedings before the
17 administrative agency and that it could not by the exercise
18 of reasonable diligence have been obtained at such
19 proceedings; and that such evidence is material to the
20 issues and is not cumulative;

21 (8) in case of affirmance or partial affirmance of an
22 administrative decision which requires the payment of
23 money, to enter judgment for the amount justified by the
24 record and for costs, which judgment may be enforced as
25 other judgments for the recovery of money;

26 (9) when the particular statute under authority of

1 which the administrative decision was entered requires the
2 plaintiff to file a satisfactory bond and provides for the
3 dismissal of the action for the plaintiff's failure to
4 comply with this requirement unless the court is authorized
5 by the particular statute to enter, and does enter, an
6 order imposing a lien upon the plaintiff's property, to
7 take such proofs and to enter such orders as may be
8 appropriate to carry out the provisions of the particular
9 statute. However, the court shall not approve the bond, nor
10 enter an order for the lien, in any amount which is less
11 than that prescribed by the particular statute under
12 authority of which the administrative decision was entered
13 if the statute provides what the minimum amount of the bond
14 or lien shall be or provides how said minimum amount shall
15 be determined. No such bond shall be approved by the court
16 without notice to, and an opportunity to be heard thereon
17 by, the administrative agency affected. The lien, created
18 by the entry of a court order in lieu of a bond, shall not
19 apply to property exempted from the lien by the particular
20 statute under authority of which the administrative
21 decision was entered. The lien shall not be effective
22 against real property whose title is registered under the
23 provisions of the Registered Titles (Torrens) Act until the
24 provisions of Section 85 of that Act are complied with.

25 (b) Technical errors in the proceedings before the
26 administrative agency or its failure to observe the technical

1 rules of evidence shall not constitute grounds for the reversal
2 of the administrative decision unless it appears to the court
3 that such error or failure materially affected the rights of
4 any party and resulted in substantial injustice to him or her.

5 (c) On motion of either party, the circuit court shall make
6 findings of fact or state the propositions of law upon which
7 its judgment is based.

8 (d) The changes to this Section made by Public Act 95-831
9 ~~this amendatory Act of the 95th General Assembly~~ apply to all
10 actions filed on or after August 21, 2007 (the effective date
11 of Public Act 95-831) ~~this amendatory Act of the 95th General~~
12 ~~Assembly.~~ The changes made by this amendatory Act of the 100th
13 General Assembly apply to all actions filed on or after the
14 effective date of this amendatory Act of the 100th General
15 Assembly.

16 (Source: P.A. 95-831, eff. 8-14-08.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."